

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

THOMAS TAYLOR,

Plaintiff,

v.

//

CIVIL ACTION NO. 1:08CV191
(Judge Keeley)

NORTH CENTRAL REGIONAL JAIL,
GEORGE TRENT, HENRY ROBINSON, JR.,
BECKY DAVIS, ASHLEY GIVANNI,
TERRY MILLER, DR. KATINY, and
JOHN KING,

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

On October 20, 2008, the pro se plaintiff, Thomas Taylor ("Taylor"), filed his complaint, pursuant to 42 U.S.C. §1983, alleging claims of deliberate indifference, medical negligence, and medical malpractice against the defendants. The Court referred the complaint to United States Magistrate Judge John S. Kaull for initial screening and a report and recommendation in accordance with Local Rule of Prisoner Litigation 83.02.

On June 4, 2009, Magistrate Judge Kaull issued a Report and Recommendation ("R&R") that recommended Taylor's complaint be **DISMISSED** for failure to state a claim. First, the magistrate judge concluded that Taylor's claims for medical negligence and medical malpractice should be dismissed because he had failed (1) to establish the required standard of care, (2) to provide the medical opinion of a health care provider to show a breach of the duty of care, and (3) to show that he met the requirements of West

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Virginia Code § 55-7B-6. Second, the magistrate judge concluded that Taylor's claim for deliberate indifference should be dismissed because he had failed to show that the defendants' actions constituted "deliberate indifference," amounting to a violation of a constitutional right.

Magistrate Judge Kaull informed Taylor that failure to object to the R&R within ten (10) days would result in the waiver of his appellate rights on this issue. Taylor filed no objections.¹

The Court therefore **ADOPTS** the Report and Recommendation in its entirety, **DISMISSES** this case **WITHOUT PREJUDICE**, and **ORDERS** that it be and it is **STRICKEN** from the Court's docket.

The Court also directs the Clerk of Court to mail a copy of this Order to the pro se plaintiff, certified mail, return receipt requested.

Dated: July 14, 2009.

/s/ Irene M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE

¹ Taylor's failure to object to the Report and Recommendation waives his appellate rights in this matter and relieves the Court of any obligation to conduct a de novo review of the issue presented. See Thomas v. Arn, 474 U.S. 140, 148-153 (1985); Wells v. Shriners Hosp., 109 F.3d 198, 199-200 (4th Cir. 1997).